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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,844	02/19/2002	Paul A Evans	36-1522	6117

23117 7590 01/11/2006	**EXAMINER**	
NIXON & VANDERHYE, PC	LASHLEY, LAUREL L	
901 NORTH GLEBE ROAD, 11TH FLOOR		
ARLINGTON, VA 22203	**ART UNIT**	**PAPER NUMBER**
	2132	

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/049,844	EVANS ET AL.
	Examiner	Art Unit
	Laurel Lashley	2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>26 October 2005</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-11</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-11</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☒ Certified copies of the priority documents have been received in Application No. <u>99/307,363</u>.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-326 (Rev. 7-05)   Office Action Summary   Part of Paper No./Mail Date 122805

DETAILED ACTION

Response to Amendments

1.   Applicant's amendments/arguments with respect to amended claims 1 – 11 filed October

26, 2005 have been fully considered (MPEP 714.04; 37 CFR 1.111) but they are not

persuasive. Amendments to the abstract and specification have been accepted.

Response to Arguments

2.   Applicant's arguments with respect to claims 1 - 11 have been considered but are not

persuasive. Applicant's amendments have necessitated a new search and new grounds of

rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

3.   Claims 1 – 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant regards

as the invention. Applicant uses the terms "unique random numbers" and "random number"

interchangeably without making a distinction between the two throughout the claims. For

example, claim 1, step (i) states, "...one or more unique random numbers" then claim 1, step

(iii) goes on to state, "selecting a random number..." It is not clear whether the "unique random

numbers" of step (i) is the same as the "random number" of step (iii). It is assumed that the

"unique random numbers" and "random number" are referring to the same element, if not

applicant needs to clarify the distinction between the two.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1 – 11 are rejected under 35 U.S.C. 103(a) as being ~~anticipated~~ *obvious* by Perlman in

US Patent No. 5,455,865 (hereinafter US '865) in view of Thomas et al. in US Patent No.

5,151,899 (hereinafter US '899).

5.   Regarding claim 1, Perlman discloses a method of conveying a data packet over a

packet network from a first server to one or more authorized recipient servers, the method

comprising:

(i) at a first server, storing a list; (ii) sending a copy of said list to an authorized recipient server

by secure communication means; and (iv) sending said data packet to said authorized recipient

server (see '865: Abstract; column 3, lines 5 – 6; column 4, lines 54 – 60; column 5, lines 33 –

40, 51 – 55, 58 – 59, 65 – 67 and column 7, lines 44 – 46),

but does not teach

a unique random numbers or random number *or* (iii) selecting a random number from said list

and including said selected random number in a data packet to be sent wherein said selected

random number has not previously been selected and included in a data packet to be sent.

Thomas et al. however does teach a unique random number or random number (see

'899: column 4, lines 63 – 67; column 5, lines 12 – 20; and claim 1, steps a) and b)). Thomas et

al. also teaches selecting a random number from said list and including said selected random

number in a data packet to be sent wherein said selected random number has not previously

been selected and included in a data packet to be sent (see '899: column 4, lines 67 – column

5, lines 1 – 6 and claim 1 step e)).

As it pertains to claim 4, Perlman discloses a method of conveying a data packet over a

packet network from a first server to one or more authorized recipient servers, the method

comprising:

(a) receiving by secure communication means at an authorized recipient server, a list and

storing it,

(b) receiving at the authorized recipient server a data packet;

(c) sending a message acknowledging receipt of said data packet (see '865: see Abstract;

column 4, lines 54 – 60; column 5, lines 32 – 36 and 50 – 57; column 6, lines 35 – 36; column 8,

lines 7 –14),

but does not teach unique random numbers or random number in a list.

Thomas et al. however does teach a unique random number or random number (see

'899: column 4, lines 63 – 67; column 5, lines 12 – 20; and claim 1, steps a) and b)). Thomas

also teaches wherein if said included random number is contained within said stored list of one

or more unique random numbers and if said including random number not included in an earlier

received data packet (see '899: column 4, lines 67 – column 5, lines 1 – 6 and claim 1 step e)).

Regarding claim 6, Perlman discloses a server arranged to convey data packet over a

network, the server comprising:

a packet network interface; a store for storing a list; secure communication means for

sending a copy of said stored list to a predetermined destination; selecting means operable *and*

routing means operable to send said data packet to said predetermined destination via

said interface (see '865: Abstract; column 7, line 15 and Fig. 2; column 3, lines 23 – 25; column

7, lines 12 – 14, 17 – 21, 25 – 27, 36 – 38 and 44 – 46).

but does not teach a unique random number or a random number from said stored list and to include said selected random number in a data packet to be sent wherein said selected random number has not previously been selected and included in a data packet to be sent.

Thomas et al. however does teach a unique random number or random number (see '899: column 4, lines 63 – 67; column 5, lines 12 – 20; and claim 1, steps a) and b)). Thomas et al. also teaches selecting a random number from said list and including said selected random number in a data packet to be sent wherein said selected random number has not previously been selected and included in a data packet to be sent (see '899: column 4, lines 67 – column 5, lines 1 – 6 and claim 1 step e)).

Regarding claim 10, Perlman discloses a server arranged to convey data packet over a network, the server comprising:

a packet network interface; secure communication means for receiving a list; a store for storing said received list; and acknowledging means operable (see '865: Abstract; column 3, lines 24 – 29; column 5, lines 35 – 36; column 6, lines 17 – 19 and 43 – 53; column 8, lines 7 – 14, 23 – 28 and 52 – 54) *but does not teach* unique random numbers or a random number.

Thomas et al. however does teach a unique random number or random number (see '899: column 4, lines 63 – 67; column 5, lines 12 – 20; and claim 1, steps a) and b)).

For claims 1, 4, 6 and 10 it would be obvious to one of ordinary skill in the art at the time of the invention to modify the methods of Perlman and Thomas et al. as they both use features of secure data packet transmission within the same field of endeavor (securely communicating packet data from source to destination) and with the same problem sought to be solved (ensuring the integrity of data from sender).

For claim 2, Perlman in view of Thomas et al. further discloses in step (vi) identifying the position of said selected random number within said list (see '899: column 2, lines 27 – 28;

column 4, lines 14 – 17; and claim 1 step f)) and step (vii) re-sending said data packets to

authorized recipient server if at step (vii), said sequence number does not match said identified

position (see '899: column 5, lines 65 – 68).

Regarding claims 3, 5, 7, 8 and 11, Perlman in view of Thomas et al. further discloses

the incorporation of an acknowledgement message with a sequence number:

where retransmission occurs after a specified time, (see '899: column 5, line 62, as

performed by the flow control signal) and

is indicative of the position of said random number (see '899: column 2, lines 27 – 28

and column 4, lines 14 – 17) and

resends said data packet if said sequence number does not match the position of said

random number (see '899: column 5, lines 65 –68).

For claim 9, Perlman in view of Thomas et al. discloses an alerting means (see '899:

column 5, line 62, as performed by the flow control signal which requires acknowledgement

request/reply).

Conclusion

6.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant

is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laurel Lashley whose telephone number is 571-272-0693. The examiner can normally be reached on Monday - Thursday, alt Fridays btw 7:30 am & 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron, Jr. can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Laurel Lashley
Examiner
Art Unit 2132

28 December 2005
LLL

GILBERTO BARRON JR.
SUPERVISORY PATENT EXAMINER
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